FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.32 OF 2003

Office Notes, Office Memoranda appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Order

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Mr.R.S.Apate, for Petitioners.

Mr.Tanaji Mathgade i/b. Anturkar, for Respondent.

CORAM: D.K.DESHMUKH,J.

DATED: 26th October, 2005.

P.C.:-

1. It is clear from the affidavit filed by the Lawyer Mr.Yashwant Vishnu Apte that it is because of his mistake that the respondent was unrepresented

before this Court when the order dated 7.8.2002 was passed. Mr.Yashwant Vishnu Apte is present in the Court. He has accepted his mistake and also expressed his willingness to pay substantial cost to the petitioners. It is also an admitted position that after the order dated 7.8.2002 was passed, the decree passed in favour of the petitioners has been executed and the petitioners have received possession of the premises. Taking overall view of the matter therefore, in my opinion, the following order would meet the ends of justice:-

(i) The order dated 7.8.2002 passed in Writ Petition no.1190 of 2002 is set aside. That writ petition is restored. The office is directed to fix the writ petition for final hearing before the appropriate Court.

(ii) It is clarified that because the writ petition is restored and the

order dated 7.8.2002 is set aside, the respondent will not be entitled to claim restoration of possession of the premises which is obtained by the petitioners in execution of Decree, during the pendency of Writ petition no.1190 of 2000.

(iii) The lawyer Mr.Yashwant Vishnu Apte as per his willingness, is directed to pay as and by way of cost of this Review application, Rs.25,000/- to the petitioners.

The lawyer undertakes to pay this amount of cost within a period of two weeks from today to the petitioners.

Review Petition is disposed of.